

Article 28C.

Grade "A" Milk Sanitation.

**§ 106-266.30. Definitions.**

The following definitions shall apply throughout this Article:

- (1) "Grade 'A' milk" means fluid milk and milk products which have been produced, transported, handled, processed and distributed in accordance with the provisions of the rules adopted by the Board of Agriculture.
- (2) "Milk" means the lacteal secretion practically free from colostrum obtained by the milking of one or more cows, goats, or other lactating animals. (1983, c. 891, s. 2; 2004-195, s. 6.1; 2011-145, s. 13.3(l), (m).)

**§ 106-266.31. Board to adopt rules.**

The Board of Agriculture shall adopt rules relating to the sanitary production, transportation, processing and distribution of Grade "A" milk. The rules, in order to protect and promote the public health, shall provide definitions and requirements for: (i) the sanitary production and handling of milk on Grade "A" dairy farms; (ii) the sanitary transportation of Grade "A" raw milk for processing; (iii) the sanitary processing of Grade "A" milk; (iv) the sanitary handling and distribution of Grade "A" milk; (v) the requirements for the issuance, suspension and revocation of permits; and (vi) the establishment of quality standards for Grade "A" milk. The rules shall be no less stringent than the 1978 Pasteurized Milk Ordinance recommended by the U.S. Public Health Service/Food and Drug Administration as amended effective January 1, 1982. The Board of Agriculture may adopt by reference the U.S. Public Health Service/Food and Drug Administration 1978 Pasteurized Milk Ordinance, as amended. (1983, c. 891, s. 2; 1985, c. 462, s. 15; 2011-145, s. 13.3(l), (n).)

**§ 106-266.32. Permits required.**

No person shall produce, transport, process, or distribute Grade "A" milk without first having obtained a valid permit from the Department of Agriculture and Consumer Services. (1983, c. 891, s. 2; 2011-145, s. 13.3(l), (o).)

**§ 106-266.33. Duties of the Department.**

The Department of Agriculture and Consumer Services shall enforce the rules of the Board of Agriculture governing Grade "A" milk by making sanitary inspections of Grade "A" dairy farms, Grade "A" processing plants, Grade "A" milk haulers and Grade "A" distributors; by determining the quality of Grade "A" milk; and by evaluating methods of handling Grade "A" milk to insure compliance with the provisions of the rules of the Board of Agriculture. The Department of Agriculture and Consumer Services shall issue permits for the operation of Grade "A" dairy farms, processing plants and haulers in accordance with the provisions of the rules of the Board of Agriculture and shall suspend or revoke permits for violations in accordance with the rules. (1983, c. 891, s. 2; 1995, c. 123, s. 3; 2011-145, s. 13.3(l), (p).)

**§ 106-266.34. Certain other authorities of Department of Agriculture and Consumer Services not replaced.**

This Article shall not repeal or limit the Department of Agriculture and Consumer Services' authority to carry out labeling requirements, required butterfat testing, aflatoxin testing, pesticide testing, other testing performed by the Department of Agriculture and Consumer Services, and any other function of the Department of Agriculture and Consumer Services concerning Grade "A" milk under any other Article under this Chapter that is not inconsistent with this Article. (1983, c. 891, s. 2; 1997-261, s. 87; 2011-145, s. 13.3(l), (q).)

**§ 106-266.35. Sale or dispensing of milk.**

(a) Except as provided in subsection (d) of this section:

- (1) Only milk that is Grade "A" pasteurized milk may be sold or dispensed directly to consumers for human consumption.
- (2) Raw milk and raw milk products shall be sold or dispensed only to a permitted milk hauler or to a processing facility at which the processing of milk is permitted, graded, or regulated by a local, State, or federal agency.

(b) The Board of Agriculture may adopt rules to provide exceptions for dispensing raw milk and raw milk products for nonhuman consumption. Any raw milk or raw milk product dispensed as animal feed shall include on its label the statement "NOT FOR HUMAN CONSUMPTION" in letters at least one-half inch in height. Any raw milk or raw milk product dispensed as animal feed shall also include on its label the statement "IT IS NOT LEGAL TO SELL RAW MILK FOR HUMAN CONSUMPTION IN NORTH CAROLINA." This labeling requirement does not apply to raw milk or raw milk products dispensed for personal use or consumption to the independent or partial owner of a cow, goat, or other lactating animal.

(c) As used in this section, the term "sale" or "sold" means any transaction that involves the transfer or dispensing of milk and milk products or the right to acquire milk and milk products through barter or contractual arrangement or in exchange for any other form of compensation. The term "sale" or "sold" does not include the transfer or dispensing of raw milk or raw milk products to, or the right to acquire raw milk or raw milk products by, the independent or partial owner of a cow, goat, or other lactating animal.

(d) Nothing in this section shall prohibit the dispensing of raw milk or raw milk products for personal use or consumption to, or the acquisition of raw milk or raw milk products for personal use or consumption by, an independent or partial owner of a cow, goat, or other lactating animal. (1983, c. 891, s. 2; 2004-195, s. 6.2; 2008-88, s. 2; 2011-145, s. 13.3(l), (r); 2018-113, s. 15.2(a).)

**§ 106-266.36. Milk embargo.**

If the Commissioner of Agriculture or a local health director has probable cause to believe that any milk designated as Grade "A" milk is misbranded or does not satisfy the milk sanitation rules adopted pursuant to G.S. 106-266.31, the Commissioner of Agriculture or a local health director may detain or embargo the milk by affixing a tag to it and warning all persons not to remove or dispose of the milk until permission for removal or disposal is given by the official by whom the milk was detained or embargoed or by the court. It shall be unlawful for any person to remove or dispose of the detained or embargoed milk without that permission.

The official by whom the milk was detained or embargoed shall petition a judge of the district or superior court in whose jurisdiction the milk is detained or embargoed for an order for condemnation of the article. If the court finds that the milk is misbranded or that it does not satisfy the milk sanitation rules adopted pursuant to G.S. 106-266.31, either the milk shall be destroyed

under the supervision of the petitioner or the petitioner shall ensure that the milk will not be used for human consumption as Grade "A" milk. All court costs and fees, storage, expenses of carrying out the court's order and other expense shall be taxed against the claimant of the milk. If, the milk, by proper labelling or processing, can be properly branded and will satisfy the milk sanitation rules adopted pursuant to G.S. 106-266.31, the court, after the payment of all costs, fees, and expenses and after the claimant posts an adequate bond, may order that the milk be delivered to the claimant for proper labelling and processing under the supervision of the petitioner. The bond shall be returned to the claimant after the petitioner represents to the court either that the milk is no longer mislabelled or in violation of the milk sanitation rules adopted pursuant to G.S. 106-266.31, or that the milk will not be used for human consumption, and that in either case the expenses of supervision have been paid. (1983, c. 891, s. 2; 1997-443, s. 11A.63A; 2011-145, s. 13.3(s), (t).)